

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

CIVIL NO. 3:06CV248

ALDEN JEROME HARDEN,

Petitioner,

Vs.

MARVIN POLK, Warden, Central
Prison, Raleigh, North Carolina,

Respondent.

ORDER

THIS MATTER is before the Court on a letter dated March 11, 2008, received from the Petitioner, which is construed by the Court as a motion for reconsideration and for the appointment of counsel. **Letter, filed March 17, 2008.**

Previously, the Court allowed the Petitioner's motion for appointment of counsel based on the condition that he pay into the Court the sum of \$600.00 to be applied to future court-appointed attorney fees. **Order, filed August 11, 2006, at 2-3.** Petitioner failed to do so even after being granted two extensions of time. **See Order, filed September 13, 2006 (extending time to October 12, 2006); Order, filed December 15, 2006**

(extending time to January 15, 2007). Thereafter, counsel were appointed *nunc pro tunc* commencing from the date the § 2254 petition was filed herein, but such continued representation was conditioned on the Petitioner's payment of the \$600.00 attorney fee. **Order, filed December 15, 2006, *supra*, at 6.** Petitioner was further cautioned that in the event he failed to pay the required attorney fee, counsel would be terminated and he would be proceeding in the matter *pro se*. ***Id.*** Two months later, Petitioner had not paid the required \$600.00, and the Court ordered the appointment of counsel terminated. **See Order, filed February 23, 2007.** Thereafter, the Respondent filed response to Petitioner's § 2254 petition and moved for summary judgment. **See *id.* at 2 (requiring Respondent to file response); Respondent's Answer to Petition for Writ of habeas Corpus and Motion for Summary Judgment, filed August 14, 2007.** By Order filed August 24, 2007, the Petitioner was afforded 60 days in which to file response to the Respondent's motion for summary judgment.¹ No response has been filed by the Petitioner.

¹ Order to the Petitioner was provided pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975).

In the Petitioner's March 11, 2008, letter, he acknowledges that the deadline for paying the \$600.00 fee has expired, that he is "painfully aware that [he is] unable to fulfil (sic) any of the requirement[s] to press onward with [his] case," that he lacks any understanding of the "legal wrangling or filings that need take place," and enclosed the \$600.00 payment as a "show of good faith." **See Letter, *supra*.** He requests that the Court make no final disposition of this action until counsel can be appointed and provided with an opportunity to file response to the Respondent's motion for summary judgment. ***Id.***

For the reasons stated in the Petitioner's letter, the fact that he has now paid the \$600.00 attorney fee and the Clerk of Court has receipted same, the Court will grant the relief sought and reappoint the same attorneys who previously appeared in this action.

IT IS, THEREFORE, ORDERED that the Petitioner's letter, construed as a motion for reconsideration and for the appointment of counsel, is **ALLOWED.**

IT IS FURTHER ORDERED that Edwin L. West, III, and Nora Henry Hargrove are hereby appointed pursuant to 18 U.S.C. § 3599(a)(2) to represent the Petitioner during the remainder of the proceedings herein.

The Clerk is directed to transmit this order electronically to
Petitioner's attorneys and the Attorney General, and mail a copy to
Petitioner.

Signed: March 21, 2008

A handwritten signature in dark ink, appearing to read 'L. H. Thornburg', is written over a horizontal line.

Lacy H. Thornburg
United States District Judge

